IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO. 7793 OF 1991
With
SPECIAL CIVIL APPLICATION NO. 7794 OF 1991
With
SPECIAL CIVIL APPLICATION NO. 7792 OF 1991

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge ?

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KAMLABEN WD/O CHIMANBHAI G. PATEL & ORS. - Petitioner(s)
Versus
STATE OF GUJARAT & ORS. - Respondent(s)

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Appearance :
Shri P.M. Bhatt, Shri M.A. Bukhari for Petitioner(s).
Shri Dipen Desai, AGP for Respondent-State in all matters
Shri Nachiketa S. Joshi for respondent Nos.4 to 11 in Special Civil Application Nos.7792 and 7794 of 1991

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 09/05/2007

ORAL JUDGMENT

In all the three cases, the petitioners, being aggrieved by the orders passed by the Mamlatdar, Appellate Authority and the Gujarat Revenue Tribunal, not accepting the purchase made by the petitioners, are before this Court. The orders have been made against the interest of the petitioners on the ground that they did not possess or held any land within the periphery of 8 kilometres and as such, in view of Section 2(vi), read with Section 63, of the Bombay Tenancy & Agricultural Lands Act, 1961, no benefit could be given to them.

2. Undisputedly, the definition “to cultivate personally”, as given in Section 2(vi) of the Act, has been retrospectively amended in the year 1995 with a further clause that it shall always be deemed that such restriction was never imposed. In view of the changed circumstances and the submission of the present petitioners that they hold some other land in the State of Gujarat, it has become necessary to set aside all the orders passed by the subordinate Authorities/Tribunal and remand the matter back to the Mamlatdar for making a fresh inquiry into the subject.

3. All the orders passed by the subordinate Authorities/Tribunal are hereby quashed and the matter is remanded to the concerned Mamlatdar. The parties present in this Court shall appear before the Mamlatdar on 18th June, 2007 along with a copy of this order. The Mamlatdar, after receiving the copy, shall proceed in accordance with law, shall grant opportunity to the parties to lead evidence and after providing an opportunity of hearing to them, shall decide the question that whether the present petitioners hold some agricultural land in the State of Gujarat, as submitted by the them. After hearing the parties, the said Mamlatdar shall decide the matter afresh in accordance with law by

a speaking order, preferably within six months from the date of appearance of the parties. All the petitions are, accordingly, allowed to the extent indicated above. Rule is made absolute. Interim relief, if any, is vacated. No costs.

[R.S.Garg, J.]

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